

November 29, 1994

SDR-922-95-02
MTM-39010
MTM-30704
3165.3 (922.HH)

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DECISION

Mr. John H. Benton)	
Orbis Engineering, Inc.)	SDR No. 922-95-02
1801 Broadway)	
Suite 1120)	
Denver, Colorado 80202)	

Affirmed in Part, Overturned in Part

Orbis Engineering, Inc. (Orbis) acting on behalf of Blackford Energy (Blackford) requested a State Director Review (SDR) (Enclosure 1), of four Notice of Incidents of Non-compliance (INC) from the Miles City District Office (MCDO) dated October 11, 1994, (Enclosure 2) assessing Blackford \$250 each for failure to comply with previously written INCs. The original request for an SDR was filed in the MCDO November 14, 1994. This office received a telefaxed copy of your request on November 17, 1994. The SDR request was considered timely filed on November 17, 1994, in accordance with 43 CFR 3165.3(b), and assigned No. SDR-922-95-02.

The previously written INCs referred to above are:

1. Two on lease MTM-39010 numbered 108-1 and 108-2 dated April 21, 1994.
2. Two on lease MTM-30704, numbered 109-4 and 109-5 dated April 22, 1994.

The two INCs on lease MTM-39010 were the result of the well sign not displaying the correct operator. The regulation at 43 CFR 3162.6(b) requires that the well sign display the correct operator. The two INCs on lease MTM-30704 were issued because two sales tanks on this lease had no gauging reference point. This is a violation of the regulation at 43 CFR 3164.1 and Onshore Oil and Gas Order #4 C.I.c. which states in part that each tank shall be equipped with a gauging reference point, with the height of the reference point stamped on a fixed bench-mark plate or stenciled on the tank near the gauging hatch. A followup inspection on October 11, 1994, showed that neither the sign violations nor the gauging reference point violations had been

corrected, and thus, the assessment INCs were issued. Orbis states in their request that Blackford's assets being frozen by the SEC rendered funds unavailable for complying with the original INCs when they were issued. However, records obtained from the MCDO indicate that "general timeframe extensions" had been given to Blackford extending the due dates for the INCs. Once a settlement with the SEC was reached and Blackford's assets were released, Blackford was informed that it would be required to address the INCs.

The Orbis request asks that the fines assessed on Blackford be reduced or eliminated indicating that the money spent on assessments would be better spent on maintaining compliance.

The MCDO acted correctly in issuing the original INCs (Enclosure 3) and, after appropriate timeframe extensions and followup inspections, correctly issued assessment INCs for failure to comply with those original INCs. However, it has been noted that when the MCDO issued the INCs for well signs on lease MTM-39010 the violation was quoted as 3162.5 2.(b) which is not the regulation pertaining to well signs. Therefore, the assessments for failure to comply with the two INCs issued on lease MTM-39010 for well sign noncompliance are overturned. We affirm the MCDO assessment of \$250.00 each for the two INCs on lease MTM-30704 for gauging reference point violations. Thus, Blackford is assessed \$500.00.

This Decision may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and Form 1842-1 (Enclosure 4). If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the decision appealed from is in error.

/s/ Thomas P Lonnie

Thomas P. Lonnie
Deputy State Director
Division of Mineral Resources

3 Enclosures

- 1-Blackford SDR dated November 10, 1994 (1 p)
- 2-MCDO Assessment INCs dated October 11, 1994 (4 p)
- 3-MCDO Original INCs dated April 21 and 22, 1994 (4 p)
- 4-Form 1842-1 (1 p)

cc: (w/encls.)

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